



Lively Holdings Summary Addendum of Proposed Uses and Conditions:

This Summary Addendum is intended to clarify and simplify the details that are included throughout our original narrative, the responses to meet requirements in Sections 7.7, 7.8, and 8.9, and on our site plan.

Summary of Proposed Uses:

We are not proposing any new primary structures, but only proposing uses of the existing approved structures and property, and adding a small accessory bathroom building.

1) Expanded Campground Use:

- a) We propose to expand beyond the 15 approved campsites to 40 campsites, and have received approval from the Michigan Department of Environment, Great Lakes and Energy (EGLE) as depicted on the attached site plan.

2) Event Center Use:

This was the original intent for the structure approved by Kasson Township in 1991 for the Eagles Club. However, it was not included as a pre-existing use, and therefore we are applying for a Special Use with conditions outlined below and a parking plan included on updated site plan. Our proposed Event Center is actually a combination of three different types of uses, to be implemented in two phases:

- a) **Community Events:** Section 4.9.1 of the Zoning Ordinance describes as a Permitted Use "public and semi-public uses, including community meeting hall..., parks and playgrounds and structures typically constructed as part of these types of facilities". We propose to use the structure and open field to the south for community gatherings (e.g. pumpkin patch, outdoor games, ice skating, art fairs), poetry, theater, or storytelling, etc. These events will serve campers, store customers, and the community, and NOT include outdoor amplified music.
- b) **Banquet/ Meeting Facility:** The impact of this use is *restaurant* (permitted use), with guests seated at dining at tables, being served food from the on-site commercial kitchen, which is a use by right in the commercial district. These events could include weddings, family reunions and parties, corporate events, etc. These events could also combine with other event uses;
- c) **Indoor Theater/ Listening Room:** We propose to use the eastern existing structure to be finished as an indoor *theater* for amplified music, or other indoor entertainment. This would be a year-round use, with a capacity limited by the building size, and conditions outlined below.

3) A Retail Food Store:

This is Permitted Use in the commercial district, which will operate within the existing structure, or seasonally under pop-up shade tents.

Note: We are also operating a small Community-Supported flower and vegetable farm on the site, as an exempt agricultural allowed use.

Accessory Uses:

We are requesting to use the existing commercial kitchen as an accessory use, which will serve the other proposed primary uses: the event center use (for catered events), the campground (to serve prepared foods to campers), and the retail local food store (to sell processed and

prepared foods). And in a second phase, we propose a bathroom and shower building as an accessory to the campground.

Existing Approved Uses:

Note that this property has already been approved for 15 campsites, as well as an "outdoor concert area with ... 2 or 3 concerts yearly", which is the language that was also approved in the Feb. 19, 2001 meeting of the Kasson Township Planning Commission. That language was continued to be allowed in the January 26, 2020 letter from Zoning Administrator Cypher, and therefore this proposal is NOT addressing that allowed use. The conditions agreed to for that use are outlined in the zoning administrator's letter.

Summary of Phased Uses and Conditions:

We propose a phased approach to our development to allow us to begin operating with approved uses within the constraints of the existing building and infrastructure in a first phase. With approval, we would like to expand those uses in a second phase that would require a larger septic system and building department approvals for public uses within the existing building. Per the advice of the planning commission, we are proposing all of these eventual uses now, recognizing that many of these future uses will require significant costs, engineering, review and approval from several other permitting agencies.

Phase 1 with Proposed Conditions:

Phase 1 is considered to be any uses operating outside the existing building and without an approved new septic system or building department approval for indoor public use. We anticipate to complete Phase 1 by May, 2022, and no later than December, 2022.

- Expanded campground up to 40 rustic sites. We have received EGLE approval, and our attached site plan documents that we have met all EGLE requirements for campsite sizes, setbacks, parking and driveways, water and bathrooms.
 - In addition, EGLE requires that we have four (4) portable privies, and two potable water outlets, once we exceed 25 sites. We have agreed to meet that condition, upon approval from Kasson Township to expand beyond the 15 sites.
 - The campground will operate under the business name Backyard Burdickville, and site reservations will be managed through Hipcamp or other online platform.
 - Other proposed campground conditions:
 - The campground will require guests to agree to reservation terms and also have posted rules and regulations to control noise and behavior. Quiet hours will be posted as 11pm - 7am.
- Event Center uses in Phase 1 will be restricted to being outside the building, as we do not have approval from the Building Department to use our indoor space for the public. Phase 1 events will be relatively small and infrequent, as these events will not have access to amplified live music, an on-site kitchen or improved restrooms. We propose no restrictions on size or frequency of events, as there is likely no significant noise or other impact on neighboring properties.

In Phase 1 events will operate under the following conditions:

- The existing kitchen is restricted to events less than 40 people, due a Health Department requirement;
- Require that catered food or food trucks meet all Health Department standards;
- There are no indoor public restrooms available; additional portable toilets would be added to meet the size of the event;
- No amplified live music connected to a public address system will be allowed for events, although acoustic music will be allowed (no drumming);
- We request that no improved (gravel) parking be required for Phase 1 events, as they will be infrequent;
- Any temporary event tents would require building department approval.
- Retail Food Store use will occur under the open-air pavilion, or under a pop-up tent on the lawn. This use will operate with limited daytime hours, and days of the week, and will serve campground patrons and the community. We will follow all Health Department, MDARD and Building Department guidelines for a public farm market.
- The accessory commercial kitchen is not approved for use at events larger than 40 people, and the inside restroom is not approved for public use at all, due to the size of the current septic system. We will follow those guidelines.

Phase 2 with Proposed Conditions:

Phase 2 proposes two significant property improvements: a new, much larger septic system, and modifications to the east half of the existing building approved by the building department that would allow indoor public uses. We anticipate these improvements to be completed before spring 2023, pending all agency approvals.

- Expanded campground sites and management will not change in Phase 2. With the approval of a new, larger septic system we propose to add a new accessory bathhouse building with four toilets, four sinks, and three showers. This building will not exceed 640 ft. sq., and will be approved by the local building and health department, and EGLE.
- Event center uses in Phase 2 will be modified with approval from the Building Department for indoor public event space, and with new accessory restrooms and use of commercial kitchen. The Event Center use in Phase 2 will operate in these spaces:
 - Indoor Theater/ Listening Room event space:
 - We propose to modify and improve an approximately 30' x 40' space within the east portion of the existing building. This interior space will be used as an indoor event center, with a small, elevated stage to allow solo artists and small bands to perform.
 - Estimated capacity (pending building dept. approval):
 - up to 90 in theater seating style;
 - up to 75 at 6' banquet tables.
 - Conditions to ensure sound is not a nuisance to nearby property owners are described in response to Section 7.8.J.1:
 - Amplified live music, using a public address system, will only occur inside the building, which will ensure that volume is reasonably low because the building is not large;
 - Hours of amplified indoor music must end by 11 p.m.;

- The interior building walls will be insulated and covered in wood or other sound absorbing material;
 - The theater space will have doors and windows that can close, and temperature regulation (heat and air conditioning);
 - Decibel levels will be monitored at the lot line or closer in all directions during soundcheck of every amplified event using a public address system to ensure levels are below 85dB;
 - There will be on-site supervision at the beginning and end of each event to ensure compliance with sound and other restrictions.
- Existing covered pavilion (40' x 40') in the middle of the existing building.
The 40' x 40' central pavilion will hold:
 - Up to 100 people at 5' banquet tables.
 - This area will NOT be used for amplified music, and is therefore unlikely to be used in theater style seating.
- Patio/ pergola or lawn area immediately adjacent and south of the pavilion;
 - Because this area will be used as a banquet use (similar to restaurant allowed use), or a community event (use by right), we propose to NOT place capacity restrictions (other than on-site parking) or frequency of use restrictions (other than hours that end events by 11pm).
- Two new accessory bathrooms attached to the existing building
- Accessory commercial kitchen adjacent to the pavilion will be used by caterers. Kitchen use conditions will be controlled by the Health and Building Department, as determined by size of septic system and other facility improvements.
- Improved (gravel) parking lot will meet our indoor/ covered design capacity limit of 180 persons. The ordinance standard requires 60 improved parking spots, to meet the 1 parking site/ three inside seats. This is described on site plan, and in response to Section 8.9.A.2.a
- Retail Food Store use will occur under the open-air pavilion, or under a pop-up tent on the lawn. This use will operate with limited daytime hours, and days of the week, and will serve campground patrons and the community. We will follow all Health Department, MDARD and Building Department guidelines for a public farm market. This use will be seasonal, or move into the Indoor event space during winter months, per building department approval. We intend to use movable shelving and refrigerators, with limited hours.



Kolano and Saha Engineers, Inc.
Consultants in Acoustics, Noise and Vibration

July 16, 2021

Mr. Thomas A. Grier, Esq.
Running Wise & Ford, PLC
1501 Cass Street, Suite D
Traverse City, MI 49685

Re: Community Noise Concerns for an Indoor/Outdoor Music Venue
Livelylands Festival Grounds – Kasson, MI

Dear Mr. Grier:

My firm, Kolano and Saha Engineers, Inc. ("K&S"), has been requested to submit a proposal to Kasson Township for purposes of evaluating potential sound issues pertaining to the Livelylands Festival Grounds located at 3805 W. Empire Highway (M-72). We have sent a preliminary proposal, dated June 16, 2021, but recognizing that on site sound measurements will be important when assessing the potential for noise impact, I have prepared an updated proposal to reflect the cost of at least one on-site visit to Kasson Township.

In general, to help assess the potential for community noise impact, our scope of work will include:

- the review of proposals and documents,
- the development of a three-dimensional outdoor acoustical model of the music venue and adjacent community,
- conduct sound level measurements in the community to determine normal ambient sound levels in the absence of the Livelylands Festival Grounds music events,
- conduct sound level measurements in the community to determine noise impacts due to a Livelylands music event(s),
- and help develop acoustic specifications to balance event activities, and community noise concerns for special use permit.

From the documents we have reviewed to this point, and the discussions you and I have had; it is my understanding that there have been a few large music events in the past that have created undesired noise impact in the community. As a result of these events, there is concern for noise related to amplified music and the related large gatherings of people on the site. Furthermore, a proposed indoor event center is of concern as it may also be a potential source of community noise impact.

Additionally, it is my understanding that our initial evaluations will be focused on acoustical (unamplified) music with non-percussive instruments and instruments that are not expected to generate inherently loud sounds. As applicable, these initial evaluations will also include the

Mr. Thomas A. Grier
Running Wise & Ford, PLC

Page 2 of 2
July 16, 2021

crowds of people gathered to hear the music. In order to do this work, it is necessary for us to visit the location to understand the topography, local conditions, contributions of ambient noise, and to conduct measurements of the ambient sound levels with and without the music events.

As these evaluations of community noise are significant to how the Livelylands Festival Grounds are used, it would be practical to wait on the results of our findings before any approvals of use regarding the generation of sound, including acoustic performances, are granted. We anticipate being able to schedule our on-site evaluations the third or fourth week in August.

Sincerely,
KOLANO AND SAHA ENGINEERS, INC.



Darren Brown, P.E.
INCE Board Certified
Senior Consultant



THE
RUNNING WISE
LAW FIRM
FORD • CONLON • GERBERDING • GRIER



July 16, 2021

Planning Commission
Kasson Township
P.O. Box 62
Maple City, MI 49664

RE: Lively Holdings, LLC Special Use Permit review

Dear Planning Commission Members:

It is my understanding that several aspects of the Lively Holdings, LLC ("Lively") special use permit are scheduled to be addressed at Monday's meeting including increasing the number of campsites from 15 to 40, and approving the use of a retail store either under an open-air pavilion or under a pop-up tent on the lawn. There has also been discussion about conducting *outdoor* public and semi-public gatherings.

The Lively property is located in the Commercial Zoning District regulated under Section 4.9 of the Zoning Ordinance ("ZO").

Section 4.9.1 describes permitted uses:

A. Public and semi-public uses, including community meeting halls, public or private schools, athletic clubs, museums, libraries, parks and playgrounds and structures typically constructed as part of these types of facilities.

B. The following commercial uses: • Banks and other financial institutions. • Offices and personal service establishments. • Retail stores. • Restaurants.

Section 4.9.2 describes the special land uses:

Section 4.9.4 describes the *Performance Standards* in the Commercial District:

A. All uses in this district shall be subject to Chapter 8, Development Site Plan Review.

B. Any use allowed in this district shall be so situated and operated that it shall not become a nuisance to the neighbors. [Emphasis added]

Kent E. Gerberding
Michael I. Conlon
Catherine D. Jasinski
Thomas A. Grier
Julie A. Giffam
Jeffrey R. Wingfield

Of Counsel:
Richard W. Ford

Harry T. Running
(1911 - 1992)

William L. Wise
(1928 - 2014)

Miles C. Gerberding
(1930 - 2015)

Traverse City
1501 Cass Street, Suite D
PO Box 686
Traverse City, MI
49685-0686
Ph. 231.946.2700
Fax. 231.946.0857

Frankfort*
Frankfort, MI 49635
Ph. 231.946.2700

*By Appointment Only

C. All commercial activities and operations shall be carried on within an enclosed structure unless specifically permitted to do otherwise by a Special Use Permit.

Land and structural uses that are not specified in any other section of this Ordinance, but upon being applied for under the provisions of Chapter 7, may be considered by the Planning Commission as long as they meet all the conditions and requirements of this Chapter and the spirit and intent of the Ordinance.

ZO Section 8.1 describes the purpose of required site plan review:

Land development affects the character of the community and its public health, safety, and general welfare. This Chapter provides that all land uses shall be subject to development site plan review except a single or two-family dwelling located on a single lot and agricultural uses not subject to a Special Use Permit or as otherwise indicated in this Ordinance. [Emphasis added]

As the Planning Commission ("PC") is aware, special land uses are also subject to standards and conditions to protect neighboring properties.

It is within this context, *of avoiding harm and nuisances to neighboring properties and the community*, that the PC authorized the hiring of an independent sound engineer, Darren Brown of Kolano and Saha, to address the potential sound and noise (nuisance) issues associated with the following general categories of uses: 1) the continuation of the three large outdoor festivals 2) amplified music associated with the indoor event facility and 3) acoustic music and other sounds associated with more general outdoor gatherings (which would include public and semi-public gatherings).

The sound engineer has not yet conducted on-site testing and a report, and for that reason, no special land use approvals, either temporary or permanent, for any of the above uses, should be granted until Mr. Brown's work has been completed.

My recommendation is that the approvals be confined to the camp site expansion and to the outdoor retail store at this time.

Please see Mr. Brown's attached letter, dated July 16, 2021, in support of this procedure.

Sincerely,


Thomas A. Grier



with management that they can be asked to leave immediately if they break any rules. Roush stated that the Livelys are responsible for any noise complaints with no need for further discussion. All planning commission members in agreement for quiet hour times.

8. No campfires when burn bans in effect – Chacon advised their HipCamp app advises of burn bans with signage in place at the campground and where fire wood is sold. Discussion followed.
9. Noise/sound levels – Cypher advised that with the 40 sites, there is potential for 320 people in the campground. Discussion followed. Cypher reported that the property is zoned commercial at this time. Cypher reported that Livelys have advised that if any conditions are recommended, an updated site plan will be provided.

Review of Findings of Fact

Cypher advised that the planning commission members review the findings of facts provided to planning commission members at tonight's meeting. Otto confirmed with Cypher that these sections on the findings of fact are in reference to the farm market and campground.

Section 7.7 Basis for Determination – Cypher advised that the planning commission will be receiving an updated letter from the Fire Chief to clarify fire provisions for campgrounds and the farm market at this time. Discussion followed. Cypher advised that the access easement on south west corner will be taken out. All planning commission members in agreement.

Section 7.8 Conditions and Safeguards– Cypher advised the easement access to Phase Two is going to be taken off the permits as there is an issue whether the dirt road is an easement as it is not listed on the deed. Chair Otto advised planning commissioners to adopt the attorney recommendations with Lively having an issue with number 12 of prohibiting acoustic music. Discussion followed whether to keep the attorney's recommendation of prohibiting acoustic music. All planning commission members agreed to keep all of the attorney's recommendations. The planning commissioners agreed that any changes can be made once the sound engineer's report is received.

Cypher advised that planning commissioners may need to consider a performance bond. Otto stated she is not sure that a performance bond is necessary for the campgrounds and farm market. Discussion followed. All planning commission members in agreement of no performance bond for Phase One currently.

Section 7.10 Grant or Denial of the Special Use Permit – Cypher advised he will be working on the verbiage for the special use permit.



Tom Grier

From: Tim <tim@allpermits.com>
Sent: Tuesday, September 14, 2021 3:16 PM
To: Tom Grier
Subject: PLEASE REVIEW MY DRAFT RESPOND - 1ST DRAFT Re: Lively Holdings: Stop Work on Phase Two / End our Special Use Application

Jim,
I am in receipt of your email below. I will respond with my comments in the order that you followed below.

1. Completely understand. The Kasson Township PC will terminate any further actions related to Phase 2. However, please remember that all conditions for Phase 1 are still in place and are expected to be met prior to any use that was conditions in Phase 1.
2. Understand, and please remember that Phase 1 was conditionally approved and those requirements are still expected to be completed before any commencement of uses approved in Phase 1.
3. The commercial kitchen has always been part of Phase 2, so no further action will be taken for any approval for that use by Kasson Township. That means that NO USAGE WHATSOEVER is approved by Kasson Township until a new SITE PLAN REVIEW IS GRANTED.
4. Because the "public and semi-public uses" were part of the Phase 2 approval, NO INTERPRETATION or NO USAGE WHATSOEVER is approved by Kasson Township until a new SITE PLAN REVIEW IS GRANTED. THAT INCLUDES BUT IS NOT LIMITED TO ANY SIZE OF EVENTS, MUSIC, ETC. other than what was originally in approved twenty years ago and most recently during the Phase 1 approval.
5. As far as the full refund of the escrow account, Kasson Township and their agents including the sound engineer and legal counsel have spend time working on your project and you will be refunded an amount subject to the invoice that we will receive from them.

Finally, if you have any questions, please don't hesitate to contact me.
Respectfully,
Tim

Timothy A Cypher
Cypher Group Inc.
Centerville, Empire, Kasson, Glen Arbor, Leland & Solon Zoning/Planning Office
231-360-2557
tim@allpermits.com

Hi Tim and Stella -

1. This email is to notify Kasson Township Planning Commission that Lively Holdings is rescinding our application for Phase 2 of our project that included a Theater and Event Center, for reasons outlined below. We sincerely appreciate all of the time and advice provided by the planning commission and zoning administrator as we have developed our project plans, and we especially appreciate the results of our Phase 1 approval.

2. We have discussed this as a business team and all agree that we want to stop our Special Use application process. We still may pursue a dedicated Music Theater Listening Room and private event center in the future, but at this time we feel like the amount of scrutiny, cost and time to receive those approvals will distract from our overall business progress. With a small farm operation, a retail local food store, an expanded campground with an associated residential manager's quarters, and three outdoor music events annually, we already have lots to do.
3. We also intend to upgrade our commercial kitchen with a future application for a cafe restaurant - a permitted use in the commercial district. This will allow us to pursue building upgrades with the Building Safety and Health Departments, including the accessory bathrooms & shower for the campground.
4. **We continue to request an interpretation of the permitted "public and semi-public uses" that are allowed in the commercial district by right**, as we expect that will allow us ample opportunities for modest public and semi-public gatherings, especially as we complete our septic upgrades.
5. Finally, we look forward to a full refund of the \$5,500 that we have put in escrow with the township for attorney costs and sound engineer to develop noise regulations. We can appreciate that the township may continue to be interested in developing noise regulations, but we are not interested in helping to pay for that.

Again - many thanks for the courtesy and patience that has been extended by both the Planning Commission and the Zoning Administrator through this process. We look forward to seeing you all at our business!

- Jim and Kelly Lively, and Emily Lively and Robert Chacon